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FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No. 09CR 620 RMW
	)	
Plaintiff,	)	STIPULATION AND
	)	ORDER CONTINUING HEARING TO
v.	)	October 3, 2011 AND EXCLUDING
	)	TIME FROM September 19, 2011, TO
BRIAN GARCIA,	)	October 3, 2011 FROM THE SPEEDY
	)	TRIAL ACT CALCULATION
Defendant.	)	
	)	

The Parties, Richard Pointer and the United States, acting through respective counsel, hereby stipulate, subject to the Court's approval, that the hearing currently set for September 19, 2011 at 9am be vacated, and that the hearing be re-set for October 3, 2011 at 9am. The parties are requesting the continuance of the hearing due to the need for additional time for effective preparation, the need to jointly negotiate a resolution in this matter, for the continuity of counsel, and in light of the fact that this case has been recently re-assigned to Carolyne A. Sanin.

The parties stipulate that the time between September 19, 2011 and October 3, 2011, is excluded under the Speedy Trial Act, 18 U.S.C. §3161, and agree that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Finally, the parties agree

1 that the ends of justice served by granting the requested continuance outweigh the best interest of  
2 the public, and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18  
3 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

4  
5 DATED: September 8, 2011

MELINDA HAAG  
United States Attorney

6  
7 /s/  
8 Carolyn A. Sanin  
Special Assistant United States Attorney

9  
10 /s/  
11 Richard Pointer  
Attorney for Defendant

~~PROPOSED~~ ORDER

Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY ORDERS that the hearing in this matter previously set for September 19, 2011 at 9am is vacated, and the matter is continued to October 3, 2011 at 9am. Further, the Court ORDERS that the time between September 19, 2011 and October 3, 2011 is excluded under the Speedy Trial Act, 18 U.S.C. §3161. The court finds that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Furthermore, the Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. The court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

IT IS SO ORDERED.

DATED: JEF:EF

  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE